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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,629	03/17/2000	Roy P. DeMott	2168	3035

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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/527,629

Applicant(s)

DEMOTT ET AL. 

Examiner

Jenna-Leigh Befumo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 35-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 and 38-47 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-15 and 35 is/are rejected.
- 7) ☒ Claim(s) 36 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. The Amendment submitted on November 5, 2003, has been entered. Claims 16 – 34 have been cancelled. Claim 7 has been amended and claims 35 – 47 have been added. Therefore, the pending claims are 1 – 15 and 35 – 47.
2. The rejections to claims 24 and 25 are moot due to the cancellation of those claims.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1 – 6 and 11 – 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hepfinger (5,916,273) in view of Stockburger (4,427,557) for the reasons of record.
5. Claims 1 – 6, 11 – 15, rejected under 35 U.S.C. 103(a) as being unpatentable over Hepfinger in view of Sandler (4,290,765).

The features of Hepfinger have been set forth in the previous Office Action. Hepfinger teaches the polyester fabric structure, but fails to teach adding a hydrophilic composition comprising a high molecular weight ethoxylated polyester. Sandler is drawn to a polyoxyalkylene polycarboxylate ester composition used to impart soil release properties to polyester textiles (abstract). Sandler discloses that much effort has been devoted to conferring soil release properties to polyester fabrics, since polyester is hydrophobic and reduces the ability of water to wet the fabric and remove stains during laundering (column 1, lines 16 – 24). The composition taught by Sandler imparts durable soil release properties to fabrics made from 100% polyester (column 1, lines 60 – 64). Therefore, it would have been obvious to one of ordinary skill in the art to add the soil release

composition taught by Sandler to the polyester fabric taught by Hepfinger to impart a durable soil release property to the fabric. Thus, claims 1 – 6, 11 – 15, and 35 are rejected.

Response to Arguments

6. Applicant's arguments filed November 5, 2003 have been fully considered but they are not persuasive. The Applicant argues that one of ordinary skill in the art would not be motivated to put the treatment composition of Stockburger on the plush fabric taught by Hepfinger, since Stockburger discloses that the treatment composition would increase the fiber to fiber friction of the fibers and therefore decrease the softness of the plush fabric (Response, pages 6 – 7). While it is true that increased fiber to fiber friction will have an effect on the overall softness of the fabric there is nothing in Stockburger that suggests that the plush fabric will no longer be soft at all. In fact, it is reasonable to presume that while the treatment composition will only slightly reduce the overall softness of the fabric since Stockburger discloses that the treatment composition is applied to textile garments made from polyester. If the treatment composition produces a harsh, rough fabric texture, the treated fabrics could not be used as a garment since it would be too uncomfortable to be worn.

Further, it is more than reasonable that one of ordinary skill in the art would sacrifice a small degree of softness for the improved soil release properties, which would make the fabric easier to clean and more user friendly. A fabric with soil release properties is going to be more attractive to a consumer since stains will be easily washed out of the fabric maintaining a nicer appearance for a longer period of time than an untreated fabric. Therefore, while the composition might increase the friction to friction properties of the fibers, the improved soil release properties are desired in polyester fabrics and the fabric would still be soft enough to be worn by a consumer, since Stockburger discloses that the treatment composition is used on garments. Thus, the rejection is maintained.

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Allowable Subject Matter

7. Claims 7 – 10 and 38 – 47 are allowed. Claim 7 is allowed for the reasons of record.

Claims 8 – 10 and 38 – 47 are allowed since they depend on claim 7.

8. Claims 36 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 36 and 37 are allowable since the prior art fails to teach using a high molecular weight ethoxylated polyester in combination with a anionic surfactant as a soil release composition on a warp knitted plush fabric.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

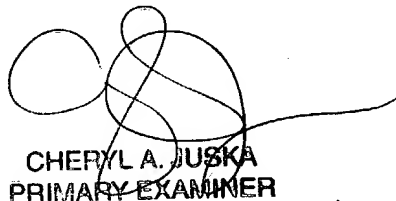
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0994.

Jenna-Leigh Befumo
January 20, 2004



CHERYL A. JUSKA
PRIMARY EXAMINER